

## CHAPTER 6 CIVIL PENALTIES

[Prior to 3/30/94, Campaign Finance Disclosure Commission[121] Ch 6]

### **351—6.1(56) Delinquent reports.**

**6.1(1)** Election year reports from all committees, except those for city, school, other political subdivision, and local ballot issues, are delinquent if not received by the nineteenth day of January, May, July, and October. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the nineteenth day of January, May, July and October.

**6.1(2)** Off-election year reports for statewide, general assembly, and county committees are delinquent if not received by the nineteenth day of January. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the nineteenth day of January.

**6.1(3)** Special election reports of candidates to fill vacancies are delinquent if not received 14 calendar days prior to the special election date. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before 14 calendar days prior to the election date.

**6.1(4)** Supplementary reports of statewide candidates and candidates for the general assembly are delinquent if not received by the Friday immediately preceding the primary, special, or general election day. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the Friday before the election day.

**6.1(5)** Reports from city, school, other political subdivision, and local ballot issue committees are delinquent if not received five days prior to the local election and on the first day of the month following the election. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the due date. Additionally, election year reports for these committees are delinquent if not received by the nineteenth day of January, May, or July. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the nineteenth day of January, May, or July.

**6.1(6)** Off-election year reports for city, school, other political subdivision, and local ballot issue committees are delinquent if not received by the nineteenth day of January and October. If mailed, the reports are delinquent if they do not bear a United States Postal Service postmark dated on or before the nineteenth day of January and October.

**6.1(7)** Committees that file reports using the board's electronic filing system must submit the reports on or before 11:59 p.m. of the report due date to avoid being delinquent.

**6.1(8)** For all committees required to report under this chapter, if the reporting deadline falls on a Saturday or Sunday or holiday, the filing deadline shall be extended to the first working day following the deadline. This extension also applies to the required United States Postal Service postmark date.

### **351—6.2(56) Routine civil penalty assessment for late-filed disclosure reports.**

**6.2(1)** In routine resolution of violations for late-filed disclosure reports, the board shall assess and collect monetary penalties for all state and local committees in Iowa and all out-of-state committees that are delinquent in filing a verified statement of registration. After a delinquent committee has filed, the board shall notify the committee of the amount of the assessment by first-class mail to the address on file with the board.

**6.2(2)** County, city, school, other political subdivision, and local ballot issue committees shall be assessed civil penalties for late-filed reports in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same treasurer of a committee in 12-month period
1 to 14 consecutive days delinquent	\$ 20	\$ 50
15 to 30 consecutive days delinquent	\$ 50	\$100
31 to 45 consecutive days delinquent	\$100	\$200

**6.2(3)** Statewide, general assembly, state statutory, and state political committees shall be assessed civil penalties for late-filed reports, except for supplemental and special election reports, in accordance with the following schedule:

Date report received	First-time delinquency	Repeat delinquency by same treasurer of a committee in 12-month period
1 to 14 consecutive days delinquent	\$ 50	\$100
15 to 30 consecutive days delinquent	\$100	\$200
31 to 45 consecutive days delinquent	\$200	\$300

**6.2(4)** General assembly candidates' committees required to file supplementary disclosure reports shall be assessed a \$200 civil penalty for filing the supplementary report one or more days delinquent. However, if there is a repeat delinquency on a supplementary report by the same treasurer within a 12-month period, the penalty shall be \$400.

Statewide committees required to file supplementary disclosure reports shall be assessed a \$400 civil penalty for filing the supplementary report one or more days delinquent. However, if there is a repeat delinquency on a supplementary report by the same treasurer within a 12-month period, the penalty shall be \$800.

**6.2(5)** The committees of general assembly candidates to fill vacancies in special elections shall be assessed a \$200 civil penalty for filing the special election report one or more days delinquent.

The committees of statewide candidates to fill vacancies in special elections shall be assessed a \$400 civil penalty for filing the special election report one or more days delinquent.

**6.2(6)** The board shall routinely assess and collect monetary penalties against committees that are organized in a jurisdiction other than Iowa and choose to file a verified statement of registration (VSR) as provided in Iowa Code section 56.5 and rule 351—4.48(56,68B), but are delinquent in filing the VSR. A VSR is considered delinquent if it is not received on or before the fifteenth day after the date of the contribution or, if mailed, does not bear a United States Postal Service postmark dated on or before the fifteenth day after the contribution. A penalty of \$25 shall be assessed for late-filed VSRs, except that if it is a repeat delinquency by the same committee in a 12-month period, the penalty shall be \$50. However, if the VSR is not filed within 15 days after notice of the delinquency is sent to the committee by the board, the penalty shall increase to \$100 for a first-time delinquency, or to \$200 for a repeat delinquency by the same committee within a 12-month period. In addition, an Iowa committee that has received a contribution from a committee that has failed to file a VSR may be required to return the contribution.

For purposes of this subrule, "date of the contribution" means the day, month and year the contribution check is dated. If the board deems it necessary, a copy of any check may be required to be filed with the board. When a copy of a check is required to be filed with the board, said copy shall be filed within 10 days of notice by the board.

**6.2(7)** Political committees that make an independent expenditure in excess of \$50 on behalf of a candidate but are delinquent in filing the notice of independent expenditure shall be assessed a \$25 civil penalty for filing the notice one or more days delinquent, except that if there is a repeat delinquency on a notice of independent expenditure by the same treasurer within a 12-month period, the penalty shall be \$50.

**351—6.3(56) Requests for waiver of penalties.** The board shall assess penalties to all delinquent committees in resolution of violations for late filings. If a committee feels there are mitigating circumstances that prevented its timely filing, the committee may make a written request to the board for waiver of the penalty. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty may be waived based on the circumstances. If a denial or partial waiver is issued, the committee shall promptly pay the assessed penalty.

**351—6.4(56,68B) Contested case challenge.**

**6.4(1)** If the committee accepts administrative resolution of this matter through the payment of the assessed penalty, the matter shall be closed. If the committee chooses to contest the board's decision to deny the request or grant a partial waiver of an assessed penalty, the committee shall make a written request for a contested case proceeding within 30 days of being notified of the board's decision.

**6.4(2)** Upon timely receipt of a request for a contested case proceeding, the board shall provide for the issuance of a statement of charges and notice of hearing. The contested case shall be conducted in accordance with the provisions of 351—Chapter 7. The burden shall remain on the board's legal counsel to prove that a violation occurred.

**6.4(3)** Failure to request a contested case proceeding to contest the board's decision on a waiver request is a failure to exhaust administrative remedies for purposes of seeking judicial review in accordance with Iowa Code chapter 17A.

**351—6.5(56) Payment of penalty.**

**6.5(1)** The remittance shall be made payable and forwarded to: Iowa Ethics and Campaign Disclosure Board, 514 E. Locust Street, Suite 104, Des Moines, Iowa 50309. The remittance shall be deposited in the general fund of the state of Iowa.

**6.5(2)** Payment may be made at the discretion of the delinquent committee, including funds of the committee or from personal funds of an officer of the committee. In the case of a candidate's committee, payment may be made from the candidate's personal funds.

**6.5(3)** If payment is made from a source other than committee funds, the payment shall be publicly disclosed as an in-kind contribution to the committee. Payments from corporate entities as described in Iowa Code section 56.15 are prohibited, except in the case of a ballot issue committee.

These rules are intended to implement Iowa Code sections 56.6 and 68B.32A.

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